

25. (New) A method for reducing tobacco consumption of a human, while providing fresh breath, comprising:

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preparing a compound comprising *Plantago major*;
providing an additive for diminishing the odor characteristics of tobacco;
combining said *Plantago major* and said additive to formulate a composition which diminishes tobacco consumption while diminishing the odor characteristics of tobacco; and

orally administering said composition in an aerosolized form to a human.

REMARKS/ARGUMENTS

Applicant acknowledges receipt of the Office Action dated October 16, 2002.

Reconsideration and further examination of new claims 18-25 is respectfully requested.

CLAIM REJECTION – 35 U.S.C. § 103

Claims 1-6 and 10 are rejected under 35 U.S.C. § 103 as unpatentable over DE 3140831 in view of Whitson-Fischman (U.S. Pat. No. 5,162,037). Claims 1-6 and 10 have been canceled. It is respectfully submitted that new claims 18-25 are not obvious over DE 3140831 in view of Whitson-Fishman for the reasons set forth below.

The Examiner states that DE 3140831 discloses a composition containing “peppermint/mint/cloves” and “menthol” which correspond to a composition containing an “additive for diminishing the odor characteristics of tobacco.” In


regards to claims 1-6 and 10, the Applicant has amended the claims to a method for “providing an additive for diminishing the odor characteristics of tobacco” in combination with *Plantago major*. The Applicant respectfully argues that DE 3140831 in view of Whitson-Fishman merely shows a homeopathic composition for breaking the smoking habit. Furthermore, DE 3140831 discloses that the composition may contain “peppermint, mint or menthol” as “flavouring agent[s]” (English Abstract) and not as additives for diminishing the odor characteristics of tobacco. It would not be obvious to one skilled in the art that adding a flavoring agent would diminish the odor characteristics of tobacco. A method for diminishing tobacco consumption while diminishing the odor characteristics of tobacco is not shown by DE 3140831, Whitson-Fishman, Cody (U.S. Pat. No. 5,716,635), or the admitted prior art. Therefore, it is respectfully submitted that new claims 18-25 are allowable over the prior art.

The Examiner also rejected claims 1-2 and 7-10 as being unpatentable over Cody in view of Whitson-Fischman and claims 1-2, 7-8 and 10 as being unpatentable over Whitson-Fischman in view of Cody. The Applicant respectfully submits that the new claims 18-25 are allowable over this prior art for the arguments stated above.

In the event that the fees submitted prove to be insufficient in connection with the filing of this paper, please charge our deposit account number 50-0578 and please credit any excess fees to such Deposit Account.

While we believe that the instant amendment places the application in condition for allowance, should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner telephone the undersigned attorney in order to expeditiously resolve any outstanding issues.

Respectfully submitted,
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